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SUBJECT: UNIONS AND JALISCO STATE GOVERNMENT SIGN AGREEMENT
TO IMPROVE LABOR ENVIRONMENT

¶1. SUMMARY: In late October the local offices of several national labor confederations and the government of the western Mexican state of Jalisco signed an agreement aimed at improving the state,s overall labor environment. The agreement called for the unions and the state government to work together to reduce the number of threatened strikes. Mexico,s constitution guarantees freedom of association and the right to strike. However, in order to exercise the right to strike Federal Labor Law establishes various administrative requirements, the two most important being (1) only legally established unions can call for a strike and (2) before a strike can be considered legal a union must receive approval of a strike notice from the appropriate labor authorities. The agreement between the unions and state authorities is Jalisco is a well-intentioned effort to deal with a situation in which the threat of a strike is increasingly used, often by bogus unions, to extort money from businesses. Still, it is doubtful that this state level agreement will produce significant concrete results. The roots of this dilemma stems from abuses of Federal Labor Law and ultimately it will require changes at the federal level to address the problem of fake or threatened strikes. END SUMMARY.

STATE LEVEL GOVERNMENT AND UNIONS TAKE ON NATIONAL PROBLEM

¶2. On October 31, the government of the western Mexican state of Jalisco and the local offices of several national labor confederations signed an accord aimed at improving the state,s overall labor climate. The accord, called &The Agreement for Labor Stability8, is an attempt to reduce the number of threatened strikes, often called by bogus or unscrupulous unions for reasons that have nothing to do with defending worker rights. According to statements by both state government and union officials, Jalisco is facing a situation in which the threat of a strike, as opposed to an actual strike, is harming the business climate and discouraging foreign investment. Spokesmen for the state,s private sector claim that the threat of a strike is increasingly being used by labor unions to extort money from businesses that often willingly pay up in order to avoid any labor conflicts or disputes that might disrupt their operations.

¶3. The agreement was signed on the state government,s side by Jalisco,s governor Emilio Gonzalez Marques and its Secretary of Labor, Ernesto Espinosa Guarro. The union

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representatives who signed the agreement included the state Secretaries General of three national labor confederations.

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Representing Mexico,s largest national labor federation, the CTM (Confederation of Mexican Workers), was Rafael Yereña Zambrano. The next most important labor leader to sign was Antonio Alvarez Esparza of the CROC (Revolutionary Confederation of Workers and Peasants), Mexico,s third largest national labor federation. (Comment: The CROC is a divided union in Jalisco and Alvarez represents the smaller and weaker portion of the union.) Finally, there was Crescencio Farias of the COR (Revolutionary Workers Confederation), one of Mexico,s smallest national level labor organizations. Both the Jalisco government and the union officials pledged to take action to reduce the number of strikes or threatened strikes in the state but this phenomenon is very much a national problems that may be resistant to state level action.

THE ROOTS OF THE PROBLEM

14. Mexico,s constitution guarantees freedom of association and the right to strike. The statutes that codify these rights are contained in Mexico,s &Federal Labor Law.⁸ In order to exercise the right to strike, Federal Labor Law establishes various administrative requirements, the two most important in this case being: (1) that only officially recognized unions can call for a strike and (2) before a strike can be considered legal a union must receive approval of a strike notice from the appropriate labor authorities. There are no provisions in Mexican law for state level authorities to suspend these two administrative requirements although state labor authorities can adapt their

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implementation in order to conform to local conditions.

15. In Jalisco, as in most other parts of Mexico, the unintended consequences of the two above-mentioned administrative requirements are a shockingly large number of filings for approvals of strike notices. As of the end of October, Jalisco,s labor authorities had received 15,495 applications for approvals of strike notices. Of this number only 4,061 were finally approved and, of those filings approved, only 162 ultimately resulted in an actual strike.

16. Many to the over 15,000 applications for approvals of strike notices were attributed to unscrupulous or paper unions which exist because of abuses of the constitutional guarantee of freedom of association. Under Federal Labor Law a union can be formed with as few as 20 employees. Unfortunately, Mexican labor authorities (at both the federal and state levels) are often lax when it comes to verifying whether the employees of a particular workplace actually exist or, if the workers do exist, whether they are aware that someone filed for legal status as their union representative. Once a union has been officially recognized, whether or not there really are any workers in the union, the documents establishing the union can be used to file an application for approval of a strike notice. Approved strike notices are then presented to business owners who are extorted to make the problem go away. The business owner could refuse to pay and risk a strike but the cost of handing over the pay-off is usually less than the cost of challenging the legal status of one of these paper unions and/or the legality of a strike.

THE DETAILS OF THE AGREEMENT

¶7. In order to address the growing problem of paper labor unions using the threat of a strike to extort money from businesses the Jalisco agreement commits the state government and the unions to:

Working together jointly to reduce the number of strikes statewide;

Verify the legal status (at least on paper) of any union filing an application for approval of a strike notice;

Deny any application for approval of a strike notice that is not signed by the union,s Secretary General;

Verify the signature of the union Secretary General on any application for approval of a strike notice.

NOT ALL UNIONS APPROVE OF THE AGREEMENT

¶8. The unions which signed the agreement with the government of Jalisco represent some 60 percent of all unionized workers in the state. The other 40 percent of Jalisco,s unionized workers are represented by the FROC (Federation of Revolutionary Workers and Compassions) and the CROM (Revolutionary Confederation of Mexican Workers). The FROC is the larger and stronger portion of the CROC in Jalisco and the CROM there is affiliated with Mexico,s fourth largest labor federation.

¶9. The two labor organizations who pointedly refused to sign the agreement with the government of Jalisco claimed they did so in order to protect the worker rights. In their view, the agreement both attempts to supercede the administrative provisions of Federal Labor Law and to deny workers their constitutionally guaranteed right to strike. Moreover, spokespersons for these two unions opined, the recently signed agreement was no different from a similar accord reached several years ago by the previous state government administration. That accord, the spokespersons averred, provided excellent photo opportunities but produced little in the way of concrete results.

COMMENT

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¶10. Despite their obvious good intentions of the union leaders and state government of Jalisco it is unlikely that &The Agreement for Labor Stability8 will produce any significant results. At both the state and federal levels Mexico,s labor authorities have been reluctant to weed out bogus paper unions or actively restrain real but unscrupulous unions. There is a chance that those in Jalisco seeking to abuse rights of free association and the right to strike codified in Mexican Federal Labor Law make restrain themselves now that they will be subject to closer scrutiny. However, without a change in federal law the moment the authorities let down their guard there will be no legal impediment to those bogus paper unions or unscrupulous unions going back to their old tricks.

¶11. This message was cleared with AmConsul Guadalajara.

